

## Message Text

LIMITED OFFICIAL USE

PAGE 01 OTTAWA 01451 231744Z  
ACTION EUR-12

INFO OCT-01 ISO-00 DOEE-00 SOE-02 AID-05 CEA-01  
CIAE-00 COME-00 DODE-00 EB-08 DOE-15 H-01 INR-10  
INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-05 USIA-06  
OES-07 SP-02 SS-15 STR-07 TRSE-00 ACDA-12 PA-01  
/124 W

-----106143 231754Z /70

P 231734Z MAR 78  
FM AMEMBASSY OTTAWA  
TO SECSTATE WASHDC PRIORITY 6765

LIMITED OFFICIAL USE OTTAWA 01451

DEPT. PASS DOE FOR LES GOLDMAN AND DOE/FERC FOR  
COMMISSIONER SMITH AND JOHN ADGER

E.O. 1162: N/A  
TAGS: ENRG, CA  
SUBJECT:AMENDMENTS TO NORTHERN GAS PIPELINE BILL (C-25)

REF: A. OTTAWA 1381, B. POSZ-ADGER TELECON OF MARCH 20, 1978

1. SUMMARY. AS REQUESTED, EMBASSY HAS RECEIVED FROM  
GOC PIPELINE COORDINATOR ROBINSON INTERPRETATIONS AND  
ASSURANCES CONCERNING RATIONALE FOR AMENDMENTS DEALING  
WITH NATIVE CLAIMS AND LEGAL CHALLENGES TO PIPELINE  
AUTHORITY ACTIONS. END SUMMARY.

2. IN LIGHT OF DOE CONCERN, EXPRESSED IN REF TELECON,  
ABOUT IMPLICATIONS OF AMENDMENTS TO GOC ALASKA GAS  
PIPELINE LEGISLATION CONCERNING NATIVE CLAIMS AND  
LEGAL PROCEDURES, EMBASSY ECONOMIC COUNSELOR PLACKE  
AND RESOURCES OFFICER POSZ CALLED ON GOC NORTHERN  
PIPELINE COMMISSIONER ROBINSON MARCH 21 TO SEEK  
CLARIFICATION ABOUT EFFECT OF THESE AMENDMENTS.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 OTTAWA 01451 231744Z

3. EMBOFFS NOTED AMENDMENT OF CLAUSE 3 INTRODUCES  
"JUST AND EQUITABLE" HANDLING OF NATIVE CLAIMS AS OBJEC-  
TIVE OF PIPELINE LEGISLATION, THUS APPARENTLY PROVIDING  
NEW BASIS FOR CHALLENGE BY NATIVE GROUPS TO OPERATIONS  
OF PIPELINE AGENCY. AMENDMENT OF CLAUSE 23 TO SUBSTITUTE  
ARTICLE 28 OF FEDERAL COURTS ACT FOR MORE RESTRICTIVE

ORIGINAL LANGUAGE OF DRAFT BILL PERMITS JUDICIAL REVIEW ON BASIS OF ERROR IN FACT OR VIOLATION OF NATURAL JUSTICE IN ADDITION TO ERROR IN LAW; AMENDMENT ALSO ENABLES REVIEW BY SUPREME COURT OF CANADA.

4. ROBINSON RESPONDED THAT WHILE THE BILL WAS BEFORE PARLIAMENT MANY MEMBERS, AS WELL AS THE PRESS, NATIVE ORGANIZATIONS AND OTHER CITIZENS GROUPS, WERE PARTICULARLY CRITICAL OF LACK OF SPECIFIC PROTECTION FOR NATIVE RIGHTS. ROBINSON SAID THAT GOVERNMENT ACCEPTED AMENDMENT OF CLAUSE 3 IN LIGHT OF ITS OBLIGATION TO PROTECT NATIVE RIGHTS. AMENDMENT ASSURES NATIVE PEOPLES THAT PIPELINE AGENCY DECISIONS WILL NOT PREJUDICE THEIR LAND CLAIMS. ROBINSON STRESSED GOVERNMENT REMAINS CONFIDENT IT CAN ACHIEVE NEGOTIATED SETTLEMENT OF NATIVE CLAIMS WITHOUT DELAYING CONSTRUCTION START-UP AS PLANNED FOR JANUARY 1981. HE SAID GOVERNMENT WILL CONTINUE TO OPPOSE ANY AMENDMENT REQUIRING SETTLEMENT OF CLAIMS BEFORE CONSTRUCTION BEGINS.

5. REFERRING TO AMENDMENT WHICH INCORPORATES ARTICLE 28 OF FEDERAL COURTS ACT INTO CLAUSE 23 OF BILL, ROBINSON SAID ORIGINAL PROVISIONS OF CLAUSE 23 STIMULATED MOST SERIOUS CRITICISM OF BILL IN COMMITTEE AND AMONG LEGAL PROFESSION THROUGHOUT CANADA. LAWYERS ASKED WHY ITS APPEALS PROVISIONS SHOULD BE MORE STRINGENT THAN THOSE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 OTTAWA 01451 231744Z

IN THE NORMAL FEDERAL APPEALS PROCESS. THE GOVERNMENT'S CASE FOR NOT ADOPTING TERMS OF COURTS ACT WAS NOT STRONG SO SUBSTITUTION WAS MADE. EMBOFFS ALSO ASKED ABOUT EFFECT OF DELETING LANGUAGE WHICH PROHIBITED COURTS FROM STAYING ACTION BY AGENCY PENDING APPEALS. ROBINSON SAID THAT THIS LANGUAGE WAS UNNECESSARY. FEDERAL COURTS ACT, SECTION 28, DOES NOT CONFER ON COURTS RIGHT TO STAY ACTS OF A REGULATORY AGENCY. SUCH POWER IS CONFERRED ON COURTS ONLY BY SPECIAL LEGISLATION. SINCE SUCH SPECIFIC LANGUAGE IS NOT IN BILL, APPEAL PROCESS WOULD NOT SUSPEND ANY ORDER BY AGENCY AND LEAD TO DELAYS IN PIPELINE CONSTRUCTION.

6. WITH RESPECT TO AMENDMENT DELETING FIRST TWO SUB-SECTIONS OF CLAUSE 16, ROBINSON SAID, ORIGINAL LANGUAGE GAVE PIPELINE AGENCY MINISTER POWER WHICH COULD BE USED TO CHANGE REGULATIONS COVERED BY OTHER LEGISLATION WITHOUT REFERENCE TO PARLIAMENT. PIPELINE AGENCY MINISTER EXISTING PROCEDURES, I.E., ORDERS-IN-COUNCIL, SO THESE EXCESSIVE AND UNNECESSARY POWERS WERE REMOVED FROM BILL. ENDERS

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AMENDMENTS, PIPELINES, LEGISLATIVE BILLS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 23 mar 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978OTTAWA01451  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780128-0741  
**Format:** TEL  
**From:** OTTAWA  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1978/newtext/t19780332/aaaabaum.tel  
**Line Count:** 115  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** a6bbd7be-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION EUR  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 78 OTTAWA 1381  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 05 may 2005  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3225494  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** AMENDMENTS TO NORTHERN GAS PIPELINE BILL (C-25)  
**TAGS:** ENRG, CA  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odhc://SAS/SAS.dbo.SAS\_Docs/a6bbd7be-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014